



NCTA

NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

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October 21, 2005

Mr. Thomas Navin
Bureau Chief, Wireline Communications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: WC Docket 05-196

Dear Mr. Navin:

I am writing to express concern that certain incumbent local telephone companies (ILECs) are using the Commission's recent *E911 Order*¹ in advertising to malign cable's digital voice offerings. Specifically, some ILECs are running ads and sending letters claiming that because some cable voice offerings may be subject to "FCC-mandated safety warning notifications" they are inferior to traditional incumbent voice services².

We believe this is a highly inappropriate characterization and distortion of the *E911 Order* and misleading invocation of the Commission's authority.

The Commission issued the *E911 Order* with the laudable goal that customers of interconnected VoIP providers be fully informed about potential limitations of their service with regard to E911. Cable providers are arguably subject to the *E911 Order* even though, as we explained in our *Comments*, "the cable industry's provision of E911 has more in common with the E911 service provided by traditional circuit-switched wireline carriers than it does with over-the-top providers of interconnected VoIP services."³ The Commission has recognized that "most fixed VoIP service providers already have deployed, or are in the process

¹ *In the Matter of E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245 (2005), ("*E911 Order*")

² See Attachment A (materials from SBC and Frontier.)

³ See NCTA Comments at 3



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of deploying, E911 services very much like those provided to wireline telephone customers.”⁴

⁴ IP-Enabled Services, E-911 Requirements for IP-Enabled Service Providers, First Report and Order and Notice of Proposed Rulemaking, FCC 05-116, rel. Jun. 3, 2005, at § 25, n.80 (citing service descriptions of Comcast, Cablevision and Cox, and NCTA comments listing various cable operators that already provide E911).

No public switched-interconnected service, traditional wireline, wireless or interconnected VoIP service, is 100 percent reliable. We noted that the Commission itself had demonstrated in prior proceedings that E911 service may be limited or unavailable to customers of traditional wireless and wireline service as well as interconnected VoIP service offered by cable.⁵ We therefore suggested that interconnected VoIP services should not be singled out with regard to customer notification. Nonetheless, cable operators have fully complied with the FCC's orders on E911 notification, expending thousands of man hours and significant expense to notify and obtain the required authorizations from customers.

Despite this serious commitment, and the FCC's own efforts to assist customers and not to create marketing gimmicks, that some incumbent local telephone companies (ILECs) are using the *E911 Order* as a competitive weapon. This was not the Commission's intent. But unfortunately, as Attachment A shows, the fact is that ILECs are using the *E911 Order* to that effect.

Cable companies are the leading residential facilities-based competitors to the ILECs. For example, Cox, the nation's 12th largest telco, has the highest rating from J.D. Powell for telephone service in the San Diego market. Cable company-ILEC competition is intensifying as telcos seek franchises to offer video and cable companies increase their telephony offerings. Such facilities competition is a welcome public policy outcome that benefits consumers. Inappropriately twisting the intent of a Commission order to mislead voice consumers as part of vigorous competition does not square with that outcome.

While companies are pursuing these deceptive and disparaging advertisements with the ILECs directly,⁶ we respectfully suggest, as we did in our Comments, that the Commission: broaden its inquiry to include the numerous circumstances in which any voice customer, regardless of technology used, may not be able to rely upon a provider's E911 service; and harmonize across all technologies how customers are to be advised of E911 limitations. This would best serve customers and competition. And the FCC should admonish incumbent ILECs not to invoke the FCC in unfair and deceptive statements regarding interconnected VoIP offerings.

Respectfully submitted,

⁵ See NCTA Comments at 2

⁶ See Attachment B of Oct. 12, 2005, letter from Shari L. Rosenblum, Counsel, Product Management Marketing, Cablevision, to Marc Lipton, General Attorney and Assistant G.C., SBC Operations.

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/s/ Daniel L. Brenner

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